

### **REMARKS**

In the November 4, 2008 Office Action, claims 1 and 2 stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

#### ***Status of Claims and Amendments***

In response to the November 4, 2008 Office Action, Applicants have amended claim 1 and added new claims 5-6, as indicated above. Thus, claims 1, 2, 5 and 6 are now pending, with claim 1 being the only independent claim. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

#### ***Interview Summary***

On March 30, 2009, the undersigned conducted a personal interview with Examiner Nguyen, who is in charge of the above-identified patent application. Applicants wish to thank Examiner Nguyen for the opportunity to discuss the above-identified patent application during the Interview of March 30, 2009.

Basically, the undersigned argued that replacing the rollers in Matsumoto with the rollers taught by JP 57-176686 would not result in the arrangement of the claims because one roller would have to be flipped, and there is no reason to flip over only one roller because the '686 publication teaches that the different widths of the rollers are created in order to reduce the friction from the roller deadweight, and therefore, the '686 publication teaches away from the flipping one of the rollers as the Examiner asserted during the Interview. Unfortunately, agreement was not reached. Rather, Examiner Nguyen indicated that he still believes the arrangement is obvious since he believes the prior art shows the arrangement of the claims. Thus, Examiner Nguyen suggested that we propose amendments to the claims in order to overcome the rejections. The undersigned then proposed clarifying that the partition plate 27 of the present invention includes a central opening which allows fluid communication between the first and second rollers in the claims because this feature appears to be lacking from the combination of Matsumoto and JP 57-176686. Examiner Nguyen noted that such an amendment may overcome the current rejections. However agreement was not reached with respect to allowability of the claims because further consideration and/or search may be needed before such a determination can be made.

***Rejections - 35 U.S.C. § 103***

On pages 2 and 3 of the Office Action, claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent Publication No. 2001-099083 (Matsumoto et al.) in view of Japanese Patent Publication No. 57-176686 (Komine), and claim 2 stands rejected as being unpatentable over the Matsumoto et al. publication in view of the '686 publication, and in further view of Japanese Patent Publication No. 1-134092 (Shimomura). In response, Applicants have amended independent claim 1 to more clearly define the present invention over the prior art.

In particular, independent claim 1 now requires each of the first and second roller portions having an end surface facing a respective one of the first and second end plates that has a larger width than an opposite end surface disposed to face the partition plate with the partition plate having a central opening allowing fluid communication between the second cut portions of the opposite end surfaces of the first and second rollers through the partition plate. Clearly this arrangement is *not* disclosed or suggested by the Matsumoto et al. publication, the '686 publication and/or the Shimomura publication, whether taken singularly or in combination.

Only the Matsumoto et al. publication discloses a so-called pair of compressor stages 121 and 122 with a so-called partition plate disposed therebetween whatsoever. However, the so-called partition member lacks a central opening whatsoever. Thus, the Matsumoto et al. publication cannot disclose a partition plate having a central opening allowing fluid communication between the second cut portions of the opposite end surfaces of the first and second rollers through the partition plate. The '686 publication is relied upon to allegedly disclose a roller with different sized cut portions. However, the compressor of the '686 publication lacks a partition member whatsoever, and thus, cannot disclose a partition plate having a central opening allowing fluid communication between the second cut portions of the opposite end surfaces of the first and second rollers through the partition plate. The Shimomura publication is merely relied upon to allegedly disclose a sintered alloy that would allegedly be used in a hypothetical compressor. However, the Shimomura publication lacks a partition member whatsoever, and thus, cannot disclose a partition plate having a central opening allowing fluid communication between the second cut portions of the opposite end

surfaces of the first and second rollers through the partition plate. Accordingly, withdrawal of the rejection of independent claim 1 is respectfully requested.

Moreover, Applicants believe that dependent claim 2 is also allowable over the prior art of record in that they depend from independent claim 1, and therefore are allowable for the reasons stated above. Also, dependent claim 2 is further allowable because it includes additional limitations, which in combination with the features of independent claim 1, are not disclosed or suggested in the prior art of record. Accordingly, withdrawal of the rejection of dependent claim 2 is also respectfully requested.

Under U.S. patent law, the mere fact that the prior art can be modified does *not* make the modification obvious, unless an *apparent reason* exists based on evidence in the record or scientific reasoning for one of ordinary skill in the art to make the modification. See, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007). The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some "apparent reason to combine the known elements in the fashion claimed." *Id.* at 1741. The current record lacks any apparent reason, suggestion or expectation of success for combining the patents to create Applicants' unique arrangement of claims 1 and 2.

#### *New Claims*

Applicants have added new claims 5-6 by the current Amendment. New claims 5-6 depend from independent claim 1, and thus, are believed to be allowable for the reasons stated above with respect to independent claim 1. Also, new dependent claims 5-6 includes additional limitations, which in combination with the features of independent claim 1, are not disclosed or suggested in the prior art of record.

Specifically, new dependent claim 5 more specifically recites the radial arrangement between the inner peripheral edge of the central opening of the partition plate relative to the inner peripheral edge of the oppositely facing end surface of the rollers that face the partition plate, which is not disclosed or suggested in any of the prior art of record.

New dependent claim 6 corresponds to claim 2, but depends from new dependent claim 5. Thus, new dependent claim 6 is believed to be allowable for the reasons stated above with respect to claims 2 and 5.

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Amendment dated April 3, 2009  
Reply to Office Action of November 4, 2009

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1, 2, 5 and 6 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested. If there are any questions regarding this Amendment, please feel free to contact the undersigned.

Respectfully submitted,

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